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Corporation; Polo Retail, LLC; Polo Ralph Lauren Corporation,
13 doing business in California as Polo Retail Corporation; and
Fashions Outlet of America, Inc.
14

15
16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18

19 ANN OTSUKA, an individual and on behalf
of all others similarly situated; JANIS
KEEFE, an individual; CORINNE PHIPPS,
20 and individual; JUSTIN KISER, an
individual; and RENEE DAVIS,
21

Plaintiff,

22 v.

23 POLO RALPH LAUREN CORPORATION;
POLO RETAIL, LLC; POLO RALPH
24 LAUREN CORPORATION, DOING
BUSINESS IN CALIFORNIA AS POLO
25 RETAIL CORPORATION; AND
FASHIONS OUTLET OF AMERICA, INC.,
26

Defendants.
27
28

Case No. C07-02780 SI

**DEFENDANTS' [PROPOSED] ORDER RE:
PLAINTIFFS' APPLICATION FOR ORDER
PERMITTING NOTICE TO CLASS**

Judge: Hon. Susan Illston
Ctmm: 10, 19th Floor
450 Golden Gate Avenue
San Francisco, CA 94102

1 Upon consideration of Plaintiffs' Request for Order Permitting Notice to Class ("Request")
 2 and Defendants' Opposition To Plaintiffs' Request , and good cause appearing, IT IS HEREBY
 3 ORDERED that:

4 (1) a hearing on Plaintiffs' Request shall be set for _____, 2008 at _____:____ a.m.
 5 in Dept. 10. Plaintiffs to file and serve any supplemental briefing by _____, 2008;
 6 Defendants to file any supplemental opposition by _____, 2008; and Plaintiffs to file any
 7 reply by Plaintiffs by _____, 2008.

8 (2) Defendants request to consolidate the hearing on Plaintiffs' Request with their pending
 9 Motion for Class Decertification is granted. The hearing on Defendants' Motion for Decertification
 10 is set for _____, 2008, at _____:____ a.m., in Dept. 10. Plaintiffs' August 22, 2008 letter
 11 request for continuance of Defendants' decertification hearing date from October 10, 2008 to
 12 November 3, 2008 or thereafter is denied. Plaintiffs' opposition to the Motion for Decertification to
 13 be filed and served by _____, 2008 and Defendants' reply to be filed and served by
 14 _____, 2008.

15 ***IN THE ALTERNATIVE, IT IS ORDERED AS FOLLOWS.***

16 Upon consideration of Plaintiffs' Request for Order Permitting Notice to Class ("Request")
 17 and Defendants' Opposition To Plaintiffs' Request , and good cause appearing, IT IS HEREBY
 18 ORDERED that:

19 Plaintiffs are granted permission to provide notice of pendency of this class action to
 20 members of the certified class in the form set forth in Exhibit 1 to this Order.

21 A long-form of class notice of pendency, in the form of Exhibit 1, may be mailed to class
 22 members through claims administrator Rosenthal & Company, LLC.

23 Class members shall have ninety (90) days from the date the notices are mailed to provide
 24 notice of their desire to opt out of the class by mailing a notice of opt out to class counsel.

25
 26 Dated: _____

27 HONORABLE SUSAN ILLSTON
 28

EXHIBIT 1

**TO DEFENDANTS' [PROPOSED] ORDER RE:
PLAINTIFFS' REQUEST FOR ORDER PERMITTING NOTICE TO CLASS**

THIS NOTICE AFFECTS YOUR LEGAL RIGHTS, PLEASE READ IT CAREFULLY.

NOTICE OF PENDENCY OF CLASS ACTION

NOTICE TO FORMER CALIFORNIA EMPLOYEES OF POLO RALPH LAUREN CORPORATION, POLO RETAIL, LLC POLO RALPH LAUREN CORP., DOING BUSINESS IN CALIFORNIA AS POLO RETAIL CORP., AND FASHIONS OUTLET OF AMERICA, INC.

Our records show you may be a member of a class for whom a class action has been filed in the United States District Court for the Northern District of California, entitled *Otsuka, et al, v. Polo Ralph Lauren Corporation, et al.*, Case No. C 07-02780 SI. This is a lawsuit brought on behalf of certain former employees of Polo Ralph Lauren Corporation, Polo Retail, LLC, Polo Ralph Lauren Corporation, doing business in California as Polo Retail Corp., and Fashion Outlets of America, Inc. (otherwise known collectively as "Defendants"). The class representatives are Janis Keefe, Corinne Phipps and Renee Davis ("the Plaintiffs"), all former employees of the Defendants.

Who are members of the Class?

Class members are certain *former sales associates and cashiers* who worked at a Polo Ralph Lauren Corporation, Polo Retail, LLC, Polo Retail Corp., and/or Fashion Outlets of America, Inc. retail or outlet store in California between May 30, 2002 and the present. This case is a class action that seeks monetary recovery for alleged unpaid wages, and including unpaid overtime wages, waiting time penalties and punitive damages.

What is the lawsuit about?

Plaintiffs allege Defendants violated California's employment laws and failed to pay their employees all of their wages. Defendants deny the allegations in the Complaint and assert they followed California and Federal law and paid employees all of their wages. The e Court has not yet determined whether the Plaintiffs' or the Defendants' contentions are correct, or whether Defendants are in fact liable to pay any monetary amounts

What are Plaintiffs' specific claims?

- Failure to pay employees for time spent inside the stores after they clocked out and were waiting for loss prevention or "bag check" inspections;
- Failure to make rest breaks available;
- Failure to timely pay all wages due at the end of class members' employment;
- Failure to maintain accurate pay records for employees; and
- Misclassification of certain sales employees as exempt from being entitled to premium overtime pay.

Class Action Ruling

The Court has ruled that this lawsuit may be maintained by the representative Plaintiffs on behalf of the following class:

"All former sales associates and cashiers who were employed in defendants' retail and outlet stores in the state of California between May 30, 2002 and the conclusion of this action." The Court has also certified two subclasses of former employees of Defendants:

1. "All members of the class who were sales associates and were misclassified as exempt inside commissioned salespeople.
2. All members of the class who were sales associates from whom the defendants took back earned wages through its arrears program."

Estimated Recovery

Plaintiffs seek to recover back wages, such as unpaid overtime wages, as well as civil penalties and punitive damages. Plaintiffs also seek interest on those amounts and attorney's fees and litigation costs. No trial has yet been held and the merits of Plaintiffs' claims have yet to be adjudicated. Individual class member's potential recoveries will depend on several factors, including but not limited to matters such as the amount of time the class members worked for the Defendants.

Rights and Obligations of Class Members

If you fall with the definition of the class, you will automatically become a class member in this lawsuit. If you wish to be considered a member of the class, you do not need to do anything further at this time, and you should NOT SEND a request to opt out of the class.

As a class member:

- You will be represented by the named class representatives and the attorneys representing the class. You will not be charged for this representation. If the Plaintiffs win, Plaintiffs' counsel will ask the Court that they be paid reasonable compensation for their representation of the class. However, you may enter an appearance through your own attorney, or on your own, by mailing a Notice of Appearance to the Clerk of the Court, 450 Golden Gate Avenue, 16th Floor, San Francisco, CA 94102. You may also ask the Court for permission to appear as a named class co-representative.
- You will receive notice of any rulings affecting your membership in the class and notice of any proposed settlement or dismissal of class claims or any judgment rendered for Plaintiffs or for Defendants.
- You will be bound by a judgment or other final disposition of the class lawsuit, whether that disposition is favorable to Plaintiffs' claims or not.
- You will be entitled to participate, upon meeting prerequisites set by the Court, in a distribution of any monetary damages recovered in the litigation.
- You should retain all records and documents pertaining to the subject matter of this case, including all wage and employee documents.
- You should notify class action claims administrator Rosenthal & Company by email at DanR@RosenthalCo.com of any change in your mailing address or email address.

Election to Not Participate in the Class ("Opting Out")

If you want to be excluded from the class, you must send a written notice of your intent to exclude yourself from the class, with the information included below, by mail postmarked no later than

_____, 2008, to: Otsuka v. Polo, c/o Rosenthal & Co., 300 Bel Marin Keys Blvd. Suite 200, Novato, CA 94949.

Please include your full name, your current mailing address, phone number, email address, and a statement that you wish to be excluded from the *Otsuka v. Polo Ralph Lauren* lawsuit.

If you elect to be excluded: (1) you will not be bound by any judgment in the case and will retain any claims you may have against Defendants, subject to applicable statutes of limitations, and (2) you will not share in any monetary recovery that might be paid if the class representatives are successful at trial or which may be obtained from any settlement.

Status and Further Information

This lawsuit may continue from this date forward for a year or longer. If you have any questions concerning the matters in this notice (or if you have corrections or changes to your name or address to update for future notices), please contact Plaintiffs' counsel in this action, whose information is provided below.

Counsel for Plaintiffs Ann Otsuka, et al
--

Patrick R. Kitchin, Esq.

The Law Office of Patrick R. Kitchin

565 Commercial Street, 4 th Floor
--

San Francisco, CA 94111

415-677-9058

415-627-9076 (fax)

The pleadings and all other records in this litigation may be examined and copied at any time during the regular office hours in the office of the Clerk of the Court, United States District Court, 450 Golden Gate Avenue, San Francisco, CA 94102.

DO NOT CALL OR WRITE THE COURT FOR ADDITIONAL INFORMATION ABOUT THE CASE.